

FORM OF FEE-FOR-SERVICE CONTRACT
WITH PRACTICE COMPANY – RURAL DOCTOR PACKAGE HOSPITALS

THIS CONTRACT made the day of 200 , **BETWEEN** (*insert the name of relevant area health service*) ("the Area Health Service") of the First Part **AND** (*insert name of the medical practitioner's practice company*) ("the Company") of the Second Part.

WHEREAS:

- A. The Area Health Service has determined to appoint Dr (*insert name of medical practitioner*) ("the Visiting Medical Officer") to provide services at the hospital or hospitals specified in Schedule 1 hereto (the "specified hospital(s)") and the Visiting Medical Officer agrees to render such services under a service contract between the Area health Service and the Company, the terms and conditions of which contract are hereunder.
- B. The Company is to be remunerated for the services provided under the contract on a fee-for-service basis in accordance with the rates and conditions established under the Rural Doctors Settlement Package as defined in this contract, relevant to the services rendered by the Visiting Medical Officer.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. APPOINTMENT

The Visiting Medical Officer is appointed on the terms and conditions set out hereunder for the period specified in clause 2 of this contract.

2. TERM OF CONTRACT

- 2.1 This contract is to be for the period from to 200.. unless this contract is properly terminated by either party in accordance with this contract.
- 2.2 The Visiting Medical Officer is, if otherwise qualified, eligible for but not entitled to re-appointment upon the expiry of this contract. Satisfactory fulfilment by the officer of the obligations under this contract shall be one of the considerations to be taken into account in deciding whether to re-appoint the officer. In the event

of re-appointment, a new service contract shall be made.

- 2.3 This contract shall not establish the relationship of employer and employee as between the Visiting Medical Officer and the Area Health Service.

3. **PROFESSIONAL RESPONSIBILITIES**

- 3.1 The services provided by the Company under the contract are to be rendered by the Visiting Medical Officer in accordance with the terms and conditions of the officer's appointment which include the professional responsibilities specified in the following sub-clauses.

- 3.2 The medical services rendered to public patients by the Visiting Medical Officer shall be consistent with the clinical privileges granted to the officer under this contract and the Company is to be remunerated for those services in accordance with the rates and conditions established under the Rural Doctors Settlement Package.

- 3.3 The Visiting Medical Officer may participate in the teaching and training of postgraduate medical officers where reasonably required and remunerated by the Area Health Service in accordance with the hourly rate determined by the NSW Department of Health.

- 3.4 The Visiting Medical Officer shall participate in committees expressly established or authorised by the board of the Area Health Service and to which the officer is appointed by such board, where reasonably required by the Area Health Service for the proper and efficient functioning of the hospital concerned. The officer will be remunerated for such participation in accordance with the Rural Doctors Settlement Package

- 3.5 The Visiting Medical Officer shall participate in an on-call roster for the provision of medical services as may reasonably be required by the Area Health Service, and when so rostered the officer shall be readily contactable at all times and be

able and prepared to attend the hospital concerned within a reasonable period of time. To enable the officer to be readily contactable whilst he or she is on-call, the Area Health Service will provide and maintain communications equipment (other than normal telephone services) which is reasonably necessary in the circumstances. The equipment will be provided on the condition that the officer will take reasonable precautions to prevent damage to or loss or theft of the equipment. The officer will be remunerated for such participation in accordance with the Rural Doctors Settlement Package

- 3.6 The Visiting Medical Officer:

- 3.6.1 shall be professionally responsible for the proper clinical management and treatment of public patients under the officer's care in the hospital

concerned and shall attend patients admitted under the officer's care at a frequency appropriate to the patients' clinical needs;

3.6.2 shall take reasonable steps to ensure that the clinical records related to the services provided by the officer, and those provided for patients under the officer's care, are maintained adequately and that such completed records include details of diagnosis, treatments and operations performed and a discharge summary completed in the manner determined by the hospital after consulting with the officer;

3.6.3 shall comply with rules and by-laws in force from time to time at the Area Health Service, not being inconsistent with any of the rights and obligations of the officer under this contract;

3.6.4 shall ensure that he or she complies with the statutory duty to report certain criminal and disciplinary matters in writing to the chief executive officer of the Public Health Organisation as required by section 99 of the Health Services Act.

4. **CLINICAL PRIVILEGES**

4.1 Subject to subclause 4.2 the Visiting Medical Officer's clinical privileges are as specified in Schedule 1 of this contract.

4.2 The Area Health Service may review and vary the clinical privileges of the Visiting Medical Officer at any time after advice from the appropriate credentials committee in respect of the specified hospital/s in accordance with any applicable Act or regulations, or by-laws in force at the specified hospital(s).

4.3 The medical services which the Visiting Medical Officer provides to patients at the specified hospital(s) shall be consistent with the clinical privileges determined by the Area Health Service in respect of the Visiting Medical Officer from time to time.

5. **GST**

5.1 To the extent that the Visiting Medical Officer is liable to pay GST in connection with services supplied under this contract, the fees specified in the Rural Doctors Settlement Package are exclusive of GST.

5.2 The Area Health Service agrees that should the Visiting Medical Officer be liable for GST in connection with the services supplied that the fees specified should be increased by an amount equivalent to the GST payable by the Visiting Medical Officer on the supplies.

5.3 The Visiting Medical Officer shall be registered for GST purposes and shall have an Australian Business ("ABN"). The Visiting Medical Officer shall provide such details to the Area Health Service.

- 5.4 The Visiting Medical Officer agrees that the Area Health Service will gross up GST liable services in accordance with GST legislation. The Area Health Service will create tax invoices on the Visiting Medical Officer's behalf (being Recipient Created Tax Invoices). The Area Health Service shall provide the Visiting Medical Officer with a copy of the Recipient Created Tax Invoices at the time of payment of the service.

6. HOSPITAL FACILITIES

The Area health Service where reasonably practicable shall provide:

- (i) all ancillary, medical, nursing and clerical assistance and facilities, instruments and equipment reasonably necessary for the proper performance of the services to be rendered by the Visiting Medical Officer under this contract; and
- (ii) to the Visiting Medical Officer upon request and free of charge, sufficient suitable and serviceable outer uniforms and duty garments, which shall remain the property of the Public Health Organisation and which shall be laundered at the expense of the Public Health Organisation.

7. UNPAID LEAVE OF ABSENCE

- 7.1 The Visiting Medical Officer shall be entitled to unpaid leave of absence during any period the officer is unable to render services due to illness or special circumstances of an urgent or compassionate nature provided that the officer shall notify the Area Health Service of such incapacity as soon as is reasonably practicable.
- 7.2 The Visiting Medical Officer may have other periods of unpaid leave of absence at times agreed between the officer and the Area Health Service. The officer will give the Area Health Service reasonable written notice of proposed periods of leave of absence. The Area Health Service will not unreasonably withhold its agreement to proposed periods of leave of absence and will take into account the reasonable needs of the officer for reasons including professional development, continuing medical education and holidays.
- 7.3 Upon the receipt of reasonable written notice and in accordance with clause 7.2, the Area Health Service is to organise such alternative arrangements for the provision of medical services to public patients as the Area Health Service requires whilst the Visiting Medical Officer is on a leave of absence under this clause. At the request of the Area Health Service the officer will provide reasonable assistance to the Area Health Service in organising such arrangements.

8. RECORD OF SERVICES

- 8.1 The Visiting Medical Officer shall maintain a record of services rendered by the officer under the contract in accordance with the Rural Doctors Settlement Package and in a form agreed with the Area Health Service.
- 8.2 The record referred to in subclause 8.1 shall be maintained for each calendar month during which services are provided by the Company, and it shall be submitted to the Area Health Service in accordance with the Rural Doctors Settlement Package. Any claim made by the Company must be capable of being verified by the Area Health Service from the records held by the Area Health Service.
- 8.3 The record when so submitted pursuant to subclause 8.2 shall be accompanied by (or be) an account for payment. The Area Health Service in making payment of an account to the Company shall advise details of how the payment is made up as between the various services rendered.

9. SUSPENSION OF CONTRACT

- 9.1 Subject to Chapter 8 of the Health Services Act 1997, the Area Health Service may suspend the appointment of the Visiting Medical Officer in accordance with any applicable by-laws where it is necessary in the interests of the hospital to which the officer is appointed.
- 9.2 Where the Visiting Medical Officer is so suspended, the respective rights and obligations of the parties under the contract shall be suspended for the duration of that suspension.

10. TERMINATION OF CONTRACT

- 10.1 The contract and the Visiting Medical Officer's corresponding appointment shall be terminated:
 - (i) upon the expiry of the period specified in clause 2 or on such earlier date as may be agreed between the Company and the Area Health Service;
 - (ii) by three months' notice in writing given by either the Visiting Medical Officer or the Area Health Service;
 - (iii) if the Visiting Medical Officer ceases to be registered as a medical practitioner;
 - (v) if a condition is placed on the Visiting Medical Officer's registration as a medical practitioner by the New South Wales Medical Board which in the opinion of the Area Health Service precludes the officer from providing any services of a kind or in a manner that is required under the contract;

- (vi) if the Visiting Medical Officer becomes permanently mentally or physically incapable of rendering services under the contract;
- (vii) if the Visiting Medical Officer commits serious and wilful misconduct; or
- (viii) if the Visiting Medical Officer's appointment is terminated by operation of any Act or regulation.

10.2 On the termination of the contract, any amount due and payable to the Company pursuant to the contract shall be paid at the time of such termination or as soon thereafter as reasonably practicable.

10.3 Nothing in this clause affects any right of appeal the Visiting Medical Officer may have under Chapter 8 of the Health Services Act 1997.

11. PROFESSIONAL INDEMNITY AND PUBLIC LIABILITY INSURANCE

11.1 The Company shall maintain medical indemnity insurance and public liability insurance to the levels approved by the Director-General from time to time under section 85(2) of the Health Services Act 1997, to cover the liabilities arising from the performance of this contract by the Company or in respect of the Visiting Medical Officer's practice as a medical practitioner under his or her appointment with the Area Health Service.

11.2 The Company shall provide the Area Health Service at least annually with documentary evidence, satisfactory to the Area Health Service, of the insurance coverage required under sub-clause 11.1 and shall immediately notify the Area Health Service, in writing, of any changes to such insurance coverage, including changes concerning the insurer, the maximum amount payable per claim or any exemption in relation to the medical practice or other activities of the Visiting Medical Officer.

11.3 The Company shall indemnify the Area Health Service against any cost, claim, demand or expense (including the cost of funding or settling any action, claim or demand) made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to any injury to any person (including death) or any damage to any property which may arise from any action, event or omission by the Company, its employees or agents, or the Visiting Medical Officer, during the performance of the contract but only to the extent that the claim or demand has not arisen from any negligent act or omission by the Area Health Service or its employees.

12. DISPUTE RESOLUTION PROCEDURE

12.1 The objective of each stage of this procedure is to achieve a result which is fair and equitable in the circumstances. It is expected that both the Visiting Medical Officer on behalf of the Company and the Area Health Service will be prepared

at all times to take part in bona fide negotiations to agree on such a result in any dispute between them without the necessity of taking it to a Liaison Committee for determination under subclause 12.8.

Stage 1 - Consultation

- 12.2 In the event of a dispute arising, the Visiting Medical Officer or the Area Health Service may give notice in writing to the other party identifying the matter or matters the subject of dispute.
- 12.3 As soon as practicable after the giving of notice under subclause 12.2 the parties shall meet to discuss the dispute and attempt to resolve it by a mutually agreed method.

Stage 2 - Hospital level

- 12.4 If the dispute is not resolved within 14 days after the giving of notice under subclause 12.2 or such further time as the parties may agree in writing, the hospital administration shall at the earliest practicable time and in any event within a further 14 days convene a meeting of the following participants:
- (i) the Visiting Medical Officer;
 - (ii) the clinical head responsible for the Department or Unit in which the officer performs his or her duties (if such a position exists), otherwise a medical practitioner nominated by the executive officer/manager (however called) for the hospital at which the officer performs his or her duties;
 - (iii) the executive officer/manager (however called) for the hospital at which the officer performs his or her duties or the nominee of the executive officer/manager;
 - (iv) at the option of the Visiting Medical Officer, a representative of the Rural Doctors Association (NSW) Inc or an independent person of the officer's choice, not being a legal practitioner; and
 - (v) such other persons as may be agreed by the parties to the dispute.
- 12.5 The meeting will consider the dispute with the objective of assisting the parties to resolve the dispute in a fair and equitable manner. With the consent of the parties the meeting may be continued on adjourned dates.

Stage 3 - Area Health Service level

- 12.6 If the dispute is not resolved within 14 days after the convening of the meeting under subclause 12.4 or such further time as the parties may agree in writing, the Area Health Service shall at the earliest practicable time and in any event within a further 14 days convene a meeting of the following participants:
- (i) the Visiting Medical Officer;
 - (ii) an appropriate clinical head nominated by the relevant chief executive officer (however called) of the Area Health Service;
 - (iii) an executive of the Area Health Service nominated by the relevant chief executive officer (however called) of the Area Health Service;
 - (iv) at the option of the Visiting Medical Officer, a representative of the Rural Doctors Association (NSW) Inc or an independent person of the Visiting

- Medical Officer's choice, not being a legal practitioner.
 (v) such other persons as may be agreed by the parties to the dispute.

- 12.7 The meeting will consider the dispute with the objective of assisting the parties to resolve the dispute in a fair and equitable manner. With the consent of the parties the meeting may be continued on adjourned dates.

Stage 4 – Mediation by Disputes Committee

- 12.8 If the dispute is not resolved within 14 days after the convening of the meeting under sub-clause 12.6 or such other time as the parties may agree in writing, then the Visiting Medical Officer or the Area Health Service may serve a further notice in writing on the other referring the dispute to a Disputes Committee for mediation. Such dispute shall thereupon be and is hereby referred to a Disputes Committee for mediation.
- 12.9 A Disputes Committee will have a total of not more than six members of which there will be an equal number of nominees of the Rural Doctors Association (NSW) Inc and the Director-General of the NSW Department of Health.
- 12.10 A Disputes Committee may call on expert advice as and when necessary.
- 12.11 The cost of a Disputes Committee will be shared equally between the Company and the Area Health Service unless otherwise ordered by a Disputes Committee.
- 12.12 In any proceedings before a Disputes Committee, the Visiting Medical Officer and the Area Health Service shall have the right to appear in person or with the leave of a Disputes Committee be represented by an agent. However, no party is to be represented by a legal practitioner except with the consent of all parties and by leave of the Disputes Committee.
- 12.13 It is agreed between the parties that a Disputes Committee shall determine all questions arising for determination by reference to considerations of general justice and fairness.

Stage 5 – Arbitration

- 12.14 If the dispute is not resolved within 14 days after the appointment of the mediator or such other time as the parties may agree in writing, then the Officer or the Area Health Service may serve a further notice in writing on the other referring the dispute to arbitration. Such dispute shall thereupon be and is hereby referred to arbitration by a single arbitrator to be agreed upon by the Visiting Medical Officer and the Area Health Service or, in the absence of agreement, to be appointed by the President or other most senior bearer of the Council of the Law Society of New South Wales or its successor.
- 12.15 The arbitrator's fee shall be negotiated on the appointment of the arbitrator and shall be shared equally between the Company and the Area Health Service, unless otherwise ordered by the arbitrator.

- 12.16 The Visiting Medical Officer and the Area Health Service shall each appoint an assessor to sit with the arbitrator in a consultative capacity, but the determination shall be made solely by the arbitrator.
- 12.17 The Visiting Medical Officer and the Area Health Service shall have the right to appear before the arbitrator and may be represented by a barrister or by a solicitor or, with the leave of the arbitrator, by an agent.
- 12.18 At the request of the Visiting Medical Officer, the Rural Doctors Association (NSW Branch) shall be entitled to appear and be represented in the arbitration.
- 12.19 At the request of the Area Health Service, the NSW Department of Health shall be entitled to appear and be represented in the arbitration.
- 12.20 In the event of either the Rural Doctors Association (NSW Branch) or the NSW Department of Health appearing in the arbitration pursuant to a request under subclause 9.18 or 9.19, the other organisation shall be entitled to appear and be represented as of right.
- 12.21 It is agreed between the parties that the arbitrator shall determine all questions arising for determination in the course of the arbitration by reference to considerations of general justice and fairness.
- 12.22 The determination of the arbitrator shall be final and binding upon the Visiting Medical Officer and the Area Health Service.

Definitions

- 12.23 In this clause:

12.23.1 "dispute" means any dispute arising between the Visiting Medical Officer and the Area Health Service at any time as to any matter or thing of whatsoever nature arising under the contract or in connection herewith; including but not limited to matters relating to clinical privileges, but excluding a matter relating to the non-reappointment, suspension or termination of appointment of the Visiting Medical Officer;

12.23.2 "local hospital" means a health facility conducted by the Area Health Service at which the Visiting Medical Officer provides services under the contract.

13. NOTICES

Any notice required by the contract to be given in writing shall be properly served if delivered by hand to the addressees personally or if sent by prepaid registered mail, facsimile or telex transmission to the addressee at the address furnished in writing to the addressor, and shall be deemed to have been received by the

addressee on the date of hand delivery or on the date the facsimile or telex transmission was recorded or seven days after the date of posting.

14. **DEFINITIONS**

In this contract:

"appointment" means appointment as a visiting medical officer and includes reappointment, and appointed and re-appointed have a corresponding meaning;

"area health service" means an area health service as defined in the Health Services Act 1997;

"board" means a board of a public health organisation as defined in the Health Services Act 1997;

"chief executive officer" means the chief executive officer of the Area Health Service or his or her nominee.

"clinical privileges" means the clinical privileges as defined in the Part 4 of Chapter 8 of the Health Services Act 1997;

"fee-for-service contract" means fee-for-service contract as defined in the Health Services Act;

"GST" means Goods and Services Tax imposed in accordance with the A New Tax System (Goods and Services Tax) Act 1999, related Acts and Regulations;

"GST legislation" means the A New Tax System (Goods and Services Tax) Act 1999, and related Acts and Regulations;

"hospital" means a hospital as defined in the Health Services Act;

"medical practitioner" means a person registered for the time being under the Medical Practice Act 1992;

"officer" means the visiting medical officer;

"on-call" means rostered to be available to attend public patients pursuant to an on-call roster prepared by a hospital or an area health service, as the case may be in consultation with the relevant hospital.

"practice company" means a corporation (however incorporated) that is controlled or conducted by the visiting medical officer and by means of which the officer conducts his or her medical practice;

"public patient" means a patient in respect of whom the hospital or area health service, as the case may be, provides comprehensive care, including all

"service contract" means a service contract as defined in the Health Services Act:

"visiting medical officer" means a visiting medical officer as defined in the Health Services Act who performs the said work under a fee-for-service contract, but excluding a pathologist and a radiologist; and

"visiting practitioner" means a visiting practitioner as defined in the Health Services Act

Other conditions of appointment

Any other conditions to which the Visiting Medical Officer's appointment is subject are required to be specified in the service contract if they are to have effect.

SIGNED for and on behalf of)
the Area Health Service)
in the presence of)

.....
Witness

SIGNED for and on behalf of)
the Company in the presence of:)

.....
Visiting Medical Officer as the
duly authorised officer
of the Company

.....
Witness

SCHEDULE 1

Name and Address of Hospital	Clinical privileges granted to the Visiting Medical Officer in respect of specified hospital
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SCHEDULE 2

Medical services to be provided to public patients
(under clause 3.1 of the contract)